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8 Daniel David Rigmaiden
 9 Pro Se, Defendant

10 **UNITED STATES DISTRICT COURT**
 11 **DISTRICT OF ARIZONA**

12 United States of America,

13 Plaintiff,

14 v.

15 Daniel David Rigmaiden, et al.,

16 Defendant.

No. CR08-814-PHX-DGC

MOTION TO STRIKE Dkt. #1031 AND
 #1032 FOR IMPROPER FILING OPTION
 AND ALTERED DOCUMENT FILED
 AGAINST DEFENDANT'S
 INSTRUCTIONS

17 Defendant, Daniel David Rigmaiden, appearing *pro se*, respectfully submits *Motion*
 18 *To Strike Dkt. #1031 And #1032 For Improper Filing Option And Altered Document Filed*
 19 *Against Defendant's Instructions.*

20 On November 21, 2012, the defendant filed *Motion For Leave To Amend Dkt. #867*
 21 *First Supplement To Motion To Suppress RE: Search And Seizure Of Digital Evidence Under*
 22 *N.D.Cal. Warrants Or, In The Alternative, To Dismiss The Case With Prejudice (Dkt. #934),*
 23 *with an attached proposed Second Supplement To Motion To Suppress RE: Search And*
 24 *Seizure Of Digital Evidence Under N.D.Cal. Warrants (Dkt. #934-1).* The proposed
 25 supplement was filed pursuant to LRCiv. 15.1 with planned omissions designated by stricken
 26 text and planed additions designated by red text. The Court granted the defendant's motion
 27 for leave on May 8, 2013 via Dkt. #1009. Pursuant to LRCiv. 15.1, the defendant was
 28 required to convert the proposed document into an actual document and “file and serve the
 amended pleading on all parties... within fourteen (14) days of the filing of the order granting

1 leave to amend, unless the Court orders otherwise.” *Id.* On May 22, 2013, *i.e.*, within 14
2 days, the defendant provided his shadow counsel's office with the required converted
3 document to be filed. The defendant instructed that the document simply be filed “as is”
4 considering the Court already granted the defendant's motion for leave.

5 Rather than file the document as instructed, shadow counsel's office filed a new
6 motion for leave and then re-lodged the amended document as a new proposed motion.
7 Shadow counsel's office also made additional alterations to the defendant's filing against the
8 defendant's long standing instruction to not alter his documents before submitting them to the
9 Court.

10 Therefore, the defendant is re-filing his *Second Supplement To Motion To Suppress*
11 *RE: Search And Seizure Of Digital Evidence Under N.D.Cal. Warrants*, as required by
12 LRCiv. 15.1 and the Court's May 8, 2013 order granting the defendant's motion for leave at
13 Dkt. #847.

14 In light of the above, the defendant requests that the Court strike Dkt. #1031 and
15 #1032 as the form of filing is incorrect, unauthorized by the defendant, and the document at
16 Dkt. #1032 was altered by shadow counsel's office prior to filing and against the defendant's
17 long standing instruction.

18 * * * * *

19 Based on the points and authorities set forth herein, the defendant respectfully
20 requests that this motion be granted.

21 This motion and all attachments were drafted by the *pro se* defendant, however, he
22 authorizes his shadow counsel, Philip Seplow, to file this motion and all attachments on his
23 behalf using the ECF system.

24 LRCrim 12.2(a) requires that the undersigned include the following statement in all
25 motions: “Excludable delay under 18 U.S.C. § 3161(h)(1)(D) will occur as a result of this
26 motion or of an order based thereon.”

27 ///

28 ///

Respectfully Submitted:

PHILIP SEPLow, Shadow Counsel, on
behalf of DANIEL DAVID RIGMAIDEN,
Pro Se Defendant:

s/ Philip Seplow

Philip Seplow

Shadow Counsel for Defendant.

CERTIFICATE OF SERVICE

I hereby certify that on: I caused the attached document to be
electronically transmitted to the Clerk's Office using the ECF system for filing and
transmittal of a Notice of Electronic Filing to the following ECF registrants:

Taylor W. Fox, PC
Counsel for defendant Ransom Carter
2 North Central Ave., Suite 735
Phoenix, AZ 85004

Frederick A. Battista
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By: s/ Daniel Colmerauer

(Authorized agent of Philip A. Seplow, Shadow Counsel for Defendant; See ECF Proc. I(D) and II(D)(3))

MOTION TO STRIKE Dkt. #1031 AND #1032 FOR IMPROPER FILING OPTION AND
ALTERED DOCUMENT FILED AGAINST DEFENDANT'S INSTRUCTIONS
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